IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2007

Coram :

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN

AND

THE HONOURABLE MR.JUSTICE P.P.S.JANARTHANA RAJA

Tax Case (Appeal) No.1000 of 2007

Commissioner of Income-tax,
Chennai. ..Appellant/ Appellant

Vs.

M/s.Integrated Finance Co. Ltd.,
P.B. No.4980, 'VAIRAMS',
112, Thiyagaraya Road,
T.Nagar,
Chennai-600 017. ..Respondent/ Respondent

Appeal under Section 260A of the Income-tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Bench 'A', Chennai in I.T.(SS)A No.22(Mds)/2003 dated 28.12.2006, for the block period 1990-1991 to 1999-2000 and 2000-2001 against the order of the Commissioner of Income Tax (Appeals) XI Chennai in I.T.A.No.144/2001-02 dated 14.11.2002 against order dated 31.10.2001 of the Dy. commissioner of Income Tax Circle I, Chennai-34 for the above period of 1990-91 to 1999-2000 & 2000-2001 in G.I.No.PA.No.9.1.

For Appellant : Mr.J.Naresh Kumar,
Standing Counsel for
Income-tax Department

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JUDGMENT

(Judgment of the Court was delivered by
P.P.S.Janarthana Raja, J.)

This appeal is filed under Section 260A of the Income Tax Act, 1961 by the Revenue, against the order of the Income Tax Appellate Tribunal, Bench 'A', Chennai in I.T.(SS)A No.22(Mds)/2003 dated 28.12.2006, raising the following substantial question of law:-

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"Whether in the facts and circumstances of the case, the Tribunal was right in holding that the subsidy received would not form part of the undisclosed income, when the receipt of the subsidy was known only during the search?"

2. The facts leading to the above substantial question of law are as under:

The assessee-company is a non-banking finance company primarily engaged in the business of hire purchase and leasing. A raid in the business premises of the assessee was carried out on 18.08.1999. In the course of the raid, several incriminating documents including the lease agreements were found and seized. As the assessee could not establish the existence of leased assets, it had withdrawn the depreciation claimed in respect of the lease transactions with various concerns. Hence the Assessing Officer completed the block assessment for the block period 01.04.1989 to 07.10.1999 determining the undisclosed income at Rs.1,67,15,250/-. While completing the assessment, the Assessing Officer made an addition of Rs.67,50,000/- being the difference between the subsidy received amounting to Rs.1,12,50,000/- and the income already offered to tax amounting to Rs.45,00,000/-. This amount of subsidy was not admitted for the purpose of income-tax and hence the Assessing Officer made the above addition as undisclosed income for the block period. Aggrieved by the order, the assessee filed an appeal to the Commissioner of Income-tax (Appeals). The C.I.T.(A) held that the same should be assessed only under the regular assessment and not in the assessment for the block period and deleted the addition. Aggrieved, the Revenue filed an appeal to the Income-tax Appellate Tribunal ("Tribunal" in short). The Tribunal dismissed the Revenue's appeal and confirmed the order of the C.I.T.(A). Hence the present tax case by the Revenue.

3. Learned Standing Counsel appearing for the Revenue submitted that the Returns filed for the assessment years 1996-97 to 1998-99 did not show any income specifically admitted as subsidy and as such, the receipt of the subsidy came into light only during the raid and hence the Assessing Officer is justified in treating the same as undisclosed income for the block period.

4. Heard the counsel. In the course of raid, copies of lease agreements relating to lease transactions have been seized. In the letter addressed to the DDIT, the assessee had stated that the subsidy of Rs.1,12,50,000/- was received from IREDA for the supply of pumps. The said subsidy of Rs.1,12,50,000/- was offered as income for the assessment year 1996-97, but was later reversed in the income admitted for the assessment year 1998-99 on the basis of the advise from the Auditors that it should be declared as income over the 10-year period of lease. The assessee had offered Rs.45,00,000/- as income in the previous years 1995-96 to 1998-99

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at the rate of Rs.11,25,000/- per year and hence the sum of Rs.45,00,000/- was reduced and the balance sum of Rs.67,50,000/- was considered as undisclosed income assessable for the block period. In this case, since the assessee itself had offered its income for the assessment year 1996-97 which was subsequently reversed and claimed by way of deduction, it could not be said that the assessee would not have disclosed the income for the block period. It is also seen from the records that the impugned amount could not be said to have come into light as a result of search operation. The findings given by the authorities below are that the income by way of subsidy is taxable for the purpose of income-tax in the regular assessment and not in the assessment for the block period and that the assessee had already disclosed its transaction and that there is no seized material to make addition. It is a question of fact and it is not a perverse one. The concurrent finding given by both the authorities is that the income should be assessed only in the regular assessment and also that the assessee had disclosed the transaction. Hence, the Assessing Officer is wrong in treating the impugned amount as undisclosed income for the block period. The concurrent findings given by both the authorities below are based on valid materials and evidence. In the case of Commissioner of Income-tax Vs. P.Mohanakala [2007] 291 ITR 278 (SC), the Supreme Court held that whenever there is a concurrent finding by the authorities below, no interference should be called for by the High Court. Under these circumstances, we do not find any error or legal infirmity in the order of the Tribunal so as to warrant interference.

5. In view of the foregoing reasons, no substantial question of law arises for consideration of this Court and accordingly, the tax case is dismissed. No costs.

Sd/-
Asst. Registrar.

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Sub Asst. Registrar.

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To

1. The Assistant Registrar,
   Income-tax Appellate Tribunal, Bench "A",
   Chennai.

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2. The Secretary,
   Central Board of Direct Taxes,
   New Delhi.

3. The Commissioner of Income-tax (Appeals) XI,
   121, Mahatma Gandhi Salai,
   Chennai-600 034.

4. The Deputy Commissioner of Income-tax,
   City Circle I,
   Chennai-34.

1 cc to Mr. Pushya Sitaraman, Advocate, sr. 41068

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